IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER

ITA No.-7663/Del/2017
(Assessment Year: 2014-15)

Saumya Jain, D/o Sh. V.K. Jain, H.No. B-312, Sector-122, Noida, GB Nagar, UP- 201301 **AHFPJ0336A**	vs	ITO Ward 58(3) New Delhi

Assessee by	Sh. K.P. Garg, CA
Revenue by	Ms. Ashima Neb, Sr. DR

Date of Hearing	24.04.2018
Date of Pronouncement	27.06.2018

ORDER

The present appeal has been filed by the assessee assailing the correctness of the order dt. 23.10.2017 of CIT(A)-19, New Delhi pertaining to 2014-15 AY, wherein the penalty imposed u/s 271(1)(c) by the Assessing Officer confirmed by the CIT(A) is assailed on various grounds including ground no. C which reads as under:

> *c) "That I am a regular assessee since last more than 8 years and during the assessment year 2014-15 I have filed my revise3d income tax return having income only under the head "income from salary and income from interest."*

2. The relevant facts of the case are that the assessee electronically filed her return. As per record it was filed vide acknowledgment number 210581000040714 on 04.07.2014. The record shows that it was argued that the return was filed by a tax consultant who inadvertently did not fill the data of income from several sources. As soon as this fact was pointed out to the assessee at the assessment stage, the assessee revised its income. On account of these facts, penalty proceedings u/s 271(1)(c) were initiated. The assessee reiterated the submissions before the AO in the penalty proceedings. It was also submitted that no refund was received and as soon as the mistake was pointed in the scrutiny proceedings, the assessee promptly revised the computation of income. However, not convinced with the explanation offered, penalty @ 150% of the tax sought to be evaded was levied. In appeal the said order was confirmed by the CIT(A).

3. Aggrieved by this the assessee is in appeal before the ITAT.

4. The Ld. AR inviting attention to the copy of the digital return filed submitted that income from salary and gross total income were shown as blank by the novice tax consultant, however, in column no. 26 in Schedule 1 of TDS of the said digital return, it can be seen that the assessee's salary from Shell India Markets P. Ltd. amounting to Rs. 26,28,221/- is shown on which TDS of 6,37,020/- has been paid. Thus, it was his submission that there can be nor there was any occasion for the assessee to hide the information already available in the public domain. It was the submission of the Ld. AR that the assessee has been a salaried employee for the last more than 10 years and even in the immediately preceding assessment year, she has received a salary of Rs. 20,58,151/- from the very same employer. This fact, it was submitted, is evident from copy of the digital return filed showing that TDS was deducted as per column no. 23 amounting to Rs. 4,29,968/-, thus, it was his submission that the assessee is a regular assessee regularly filing her income from the very same source of income disclosing correctly her income received from salary from the very same employer and the mistake presumably by the tax consultant has resulted in this confusion which was promptly addressed by the assessee. Accordingly, in the circumstances, penalty imposed u/s 271(1)(c) it was submitted may be quashed.

5. The Ld. Sr. DR relies upon the order.

6. I have heard the submissions and perused the material available on record. It is not in dispute that the assessee in the year under consideration has returned income from the very same source i.e. Shell India Markets P. Ltd. as in the earlier years. When the returned income of the year is compared to the returned income from the very same source with the income returned in the immediate preceding assessment year, it is seen that there has been an increase of approximately 6 lakh. It is seen that in the immediately preceding assessment year as per record, it was Rs. 20,58,000/- odd which in the year under consideration has increased to 26,28,000/- odd . In these peculiar facts and circumstances, I find no good reason to disbelieve the consistent claim of bonafide mistake on the part of the tax consultant. Support is also drawn from the decision of the Apex Court in the case of CIT vs. Price Water House Coopers P. Ltd. There is nothing on record to show that the

assessee is a habitual defaulter and this point was specifically required to be addressed by the Ld. AR. The Ld. AR on query has made a statement at Bar that at no point of time the assessee has ever been penalized for not placing correct and true facts on record. The decision accordingly, is taken considering the past history of the assessee, her conduct and the peculiar facts & circumstances of the present case noting that the income from the very same source is being consistently returned over the years and since TDS is being deducted periodically thereon, the information was always available in the public domain. The inadvertent mistake in the digital filing of return accordingly in these facts in the light of the explanation offered does not attract the penal proceedings. The penalty imposed u/s 271(1)(c) of the Act is directed to be quashed. Said order was pronounced in the open court at the time of hearing itself.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 27.06.2018.

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

*Kavita Arora/Poonam(CHD)

Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

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ASSISTANT REGISTRAR
ITAT NEW DELHI